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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Special Committee decision of 20 June 2011 concerning Puerto Rico

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I. Introduction

1. At its 5th meeting, on 20 June 2011, the Special Committee adopted draft resolution A/AC.109/2011/L.6 on the question of the Special Committee decision of 21 June 2010 concerning Puerto Rico. In paragraph 11 of the resolution, the Special Committee requested the Rapporteur to submit a report in 2012 on the implementation of the resolution. The present report was prepared by the Rapporteur in compliance with that request. It considers Puerto Rico in the light of previous reports prepared by the Rapporteur, recent political, economic and military developments in Puerto Rico and action taken by United Nations bodies on the matter.

II. Background information

A. General

2. Puerto Rico is the most easterly and smallest island of the Greater Antilles, in the Caribbean Sea. It has a land area of 8,959 km^2, including the small nearby islands of Vieques, Culebra and Mona. More than three fourths of Puerto Rico is mountainous and the range that runs its length reaches an elevation of 1,338 m at its highest point.

3. As at July 2010, the population, estimated to be 3,978,702,[1] was primarily Spanish speaking, although a certain number of Puerto Ricans also speak English. According to United States of America census estimates, Puerto Rico's estimated rate of population growth in 2009 was just under 0.3 per cent. In 2010 the total population decreased by 82,821, a 2.2 per cent reduction as compared to 2000, owing to migration and a lower birth rate. The majority of persons leaving the island today are young professionals, implying brain drain. According to United States Census Bureau information, 359,585 Puerto Ricans settled in the continental United States between 2000 and 2007; during the 1980s that figure was approximately 491,000, and had reached almost half a million in the 1950s and 1960s. An estimated 4.6 million Puerto Ricans currently live in the United States.

4. Over the past six decades, the island's demography has been transfo...ed from that of a traditional agrarian society into that of an industrial society, with population growth slowing and life expectancy rising sharply.

5. United States citizenship is granted to people born in Puerto Rico. They do not have the right to vote in United States presidential or congressional elections unless they reside on the United States mainland. In addition, the Supreme Court of Puerto Rico has recognized the existence of Puerto Rican citizenship in a court decision. The Puerto Rican Department of State certifies such citizenship, which Puerto Ricans may claim through a protocol established by the Department. Under the current Commonwealth arrangements, authority over defence, international relations, external trade, monetary and other matters remains with the United States, while Puerto Rico has autonomy on tax matters and most local affairs.

[1] CIA Factbook. Available from www.cia.gov/cia/publications/factbook; see Puerto Rico.

6. The main political parties in the Territory differentiate themselves mostly by their position on the ultimate political status of Puerto Rico, none being satisfied with the status quo. The Partido Popular Democrático (PPD) favours an enhanced Commonwealth status, non-territorial and non-colonial. United States citizenship would be retained but Puerto Rico would have greater governmental authority over its own affairs and more latitude to establish regional and international relations. The Partido Nuevo Progresista (PNP) favours Puerto Rico's full integration as a state of the United States. Support for PPD remains slightly higher than for PNP. The third party, the Partido Independentista Puertorriqueño (PIP), favours independence for the island. There are pro-independence groups and organizations that do not participate in the elections because they consider that elections within a colonial context do not represent a true democratic exercise, while some cast strategic votes in favour of the PPD candidate for Governor, in order to prevent the ascension to power of statehood supporters.

7. At present, two organizations, the Partido del Pueblo Trabajador and the Movimiento Unión Soberanista, are registering at the State Elections Commission in order to present candidates in the 2012 elections. Both are developing platforms that emphasize improving social and working conditions in Puerto Rico and protection of the environment, while the Movimiento Unión Soberanista upholds the importance of national sovereignty and a constitutional assembly under international law to address the status issue.

B. Constitutional and political status

8. Puerto Rico currently holds commonwealth status with the United States. The 1952 Constitution of the Commonwealth of Puerto Rico is described in detail in paragraphs 91 to 119 of the Rapporteur's report of 1974 (A/AC.109/L.976). In brief, the Government consists of: (a) a Governor elected for four years at each general election; (b) a Legislative Assembly comprising two houses, the Senate (27 members) and the House of Representatives (51 members), elected by direct vote of the adult population at each general election; and (c) a Supreme Court and lower courts. The jurisdiction of the United States federal courts includes Puerto Rico. Puerto Rico is represented in the United States Government by a Resident Commissioner, who is a non-voting member of the United States House of Representatives, but a voting member of any committees on which he or she sits.

9. There are two judicial systems: Puerto Rico's courts and the United States District Court for the District of Puerto Rico. The latter functions in Puerto Rico with limited jurisdiction and can be reached only for cases under United States federal law or cases where there is diversity of state citizenship, that is, when a citizen of one state sues a citizen of another state. Cases before Puerto Rico's Supreme Court involving federal law can be appealed to the United States Supreme Court. Appeals to the First Circuit are taken from the United States District Court for the District of Puerto Rico, which is a first instance court.

10. Even after the establishment of a constitutional Government for Puerto Rico in 1952, United States congressional authority over Puerto Rico remained unaltered. The United States Congress is vested with plenary power over Puerto Rico, while the island is vested with local authority over designated areas. All laws concerning the Territory's relations with the United States remained in force through the Federal

Relations Act (see A/AC.109/L.976, paras. 120-132), under which Puerto Rico was brought within the trade, tariff and monetary systems of the United States. The United States also undertook responsibility for the defence of Puerto Rico. In 1958, Puerto Rico's Legislative Assembly requested changes in the Federal Relations Act, but these were not enacted. In 1959, three bills requesting changes in the political status of the Territory were submitted to the United States Congress, but no action was taken on any of them.

11. The results of a 1993 plebiscite, with virtually identical options to those offered in a previous plebiscite in 1967, were 48.4 per cent for the status quo (Commonwealth), 46.2 per cent for statehood and 4 per cent for independence. Following this result, and a request for clarification by the Legislative Assembly of Puerto Rico, Congress replied that the definition contained expectations that were not viable (see A/AC.109/1999/L.13, paras. 172-180). The Legislative Assembly then voted to hold another plebiscite in 1998.

12. The results of the plebiscite held on 13 December 1998 were as follows: 50.4 per cent for "None of the above", an option included by means of court action pursued by PPD; 46.7 per cent for statehood; 2.3 per cent for independence; 0.3 per cent for free association; and 0.06 per cent for Commonwealth. In the plebiscite, independence supporters divided themselves by also casting votes with the "None of the above" option, in an act of repudiation of what was considered an undemocratic exercise. Some political and civil society sectors increasingly question the validity of plebiscites where the Government of the United States is not bound by the results, and also whether the United States is actually willing to extend statehood. Many also call for a process of self-determination and decolonization in conformity with General Assembly resolution 1514 (XV) and resolutions of the Special Committee on Decolonization on the matter.

13. In July 2005, a vote was held whereby 84 per cent of voters opted in favour of a unicameral legislature for Puerto Rico. Although only 22 per cent of registered voters participated in that referendum, the results triggered a process whereby another referendum was to be held in 2007 to potentially amend Puerto Rico's Constitution and establish a one-house system in 2009. On 29 June 2007, however, the Supreme Court of Puerto Rico ruled that it could not force the Legislative Assembly to initiate a constitutional amendment process to establish a unicameral legislative system.

14. After the 1998 plebiscite, then President of the United States, William J. Clinton, established the President's Task Force on Puerto Rico's Status. On 5 December 2003, then President George W. Bush named the 16 members of his Task Force, at the same time amending President Clinton's executive order so that the Task Force was required to report on the progress made every two years instead of annually.

15. In its December 2005 report, the President's Task Force on Puerto Rico's Status stated that, while the current territorial status might continue so long as Congress desired, there were only two non-territorial options recognized by the United States Constitution, namely, statehood within the United States or full independence. The Task Force concluded that Puerto Rico belonged to but was not a part of the United States. It envisaged a two-stage process to approach the status issue. It first recommended that a "federally sanctioned plebiscite" should take place in 2006 to ascertain whether the people of Puerto Rico "wish to remain a United States territory subject to the will of Congress or to pursue a constitutionally viable

path towards a permanent non-territorial status with the United States". The Task Force then recommended that, if the voters chose to change the current territorial status, an additional referendum should allow them to decide between statehood and independence. If, on the other hand, the voters elected to maintain the current territorial status, the Task Force recommended that plebiscites should be held periodically to "keep Congress informed of the people's wishes".

16. It is important to note that, both before and since the issuance of the 2005 Task Force report, some have questioned whether Puerto Rico's status as a United States territory is consistent with statements that the United States made to the United Nations in 1953, following the adoption of Puerto Rico's Constitution, in requesting that Puerto Rico be removed from the list of Non-Self-Governing Territories. In its official request to the United Nations, the United States stated that Congress had given Puerto Rico the freedom to conduct its own internal government subject only to compliance with federal law and the United States Constitution.

17. Prior to the submission of the official request, the United States representative to the United Nations indicated orally that mutual consent would be needed to make changes in the relationship between Puerto Rico and the United States. That statement notwithstanding, the Department of Justice concluded in 1959 that Puerto Rico remained a territory and fully subject to congressional authority under the territorial clause of the United States Constitution. A broad spectrum of Puerto Rico's political and civil society sectors participating in hearings on Puerto Rico by the Special Committee on Decolonization maintains that the process of consultation of the Puerto Rican people regarding the status issue should take place in the context of international law, United Nations resolution 1514 (XV) and resolutions on Puerto Rico adopted by the Special Committee on Decolonization since 1973.

18. In early 2007, the United States Congress reopened consideration of Puerto Rico's political status, as two pieces of draft legislation aimed at resolving the status issue were debated in the Subcommittee on Insular Affairs of the Committee on Natural Resources. In March 2007, hearings took place on the two approaches.

19. The Puerto Rico Democracy Act of 2007 (H.R.900) was introduced in the House of Representatives on 7 February. The bill stated, inter alia, that:

> "The Puerto Rico State Elections Commission shall conduct a plebiscite in Puerto Rico during the 111th Congress, but not later than 31 December 2009. The ballot shall provide for voters to choose between only the following two options: (1) Puerto Rico should continue the existing form of territorial status as defined by the Constitution, basic laws, and policies of the United States; (2) Puerto Rico should pursue a path toward a constitutionally viable permanent non-territorial status."

20. A second bill, the Puerto Rico Self-Determination Act of 2007 (H.R.1230), was introduced in the House of Representatives on 28 February 2007, recognizing the right of the people of Puerto Rico to call a constitutional convention through which the people would exercise their natural right to self-determination and to establish a mechanism for congressional consideration of such decision. The Constitutional Assembly is a procedural mechanism for the decolonization of Puerto Rico, which has gained ground on the island in recent years. This mechanism has been supported by the Puerto Rico Bar Association, which has participated in

Special Committee on Decolonization hearings on Puerto Rico since 1972. That bill was not voted on by the end of the 2007-2008 congressional session.

21. In December 2007, the President's Task Force issued its second report on the question of Puerto Rico's status. Again concluding that there were only three options available under the United States Constitution for the future status of Puerto Rico, namely, continuing as a territory, statehood or independence, the Task Force reiterated the three recommendations that it had put forward in its 2005 report.

22. The press in Puerto Rico widely reported that, on 2 January 2009, then President-elect of the United States Barack Obama sent a message to the swearing-in ceremony of the new Governor of Puerto Rico, Luis Fortuño, reiterating that he would try to resolve the colonial case of Puerto Rico during his first term.

23. The President's Task Force on Puerto Rico's Status, as constituted under the Administration of President Obama, held its first meeting on 15 December 2009, expanding its focus to include matters affecting Puerto Rico's economic development. President Obama signed an executive order on 30 October 2009 that preserved the Task Force's original mission and required it to provide advice and recommendations to the President and Congress on policies that promoted job creation, education, health care, clean energy and economic development on the islands. The Task Force comprises designees of each member of the President's Cabinet and the Co-Chairs of the President's Interagency Group on Puerto Rico.

24. On 3 March 2010, the Task Force held hearings in San Juan. Testimony reflected a consensus that the Task Force must first address the issue of Puerto Rico's status. The possibility of the Constitutional Assembly serving as a mechanism for deciding Puerto Rico's future political status was also broadly discussed during the hearings. PNP stated its position, as reflected in a resolution pushed through in the Senate, rejecting the extension of the status quo through further hearings, and demanding a recommendation from the Task Force to bring about an immediate process for solving the political status issue. A PDP representative said in his testimony that the Task Force should examine the option of convoking a constitutional status assembly. In a written statement submitted to the Task Force during the hearings, elected officials of the autonomist wing of PDP reaffirmed their support for recognition of the sovereignty of the Puerto Rican people and a constitutional assembly as stated in the party programme. A representative of PIP objected to changes in the agenda of the Task Force, arguing that it was contradictory to speak of economic development under the colonial model. The third report of the Task Force, issued on 16 March 2011, includes an overview of the relationship between the United States and Puerto Rico and the status issue, an executive summary about its status and economic development and recommendations in relation to Vieques, and a description of its next steps, which include implementation, receiving reports from Task Force members regarding the engagement of United States federal agencies on recommendations presented, and holding at least two summits in Puerto Rico in the next two years focusing on individual subject areas.

25. Most of the content on status consists of recommendations for an accelerated decision process regarding the status issue whereby Puerto Ricans could express their will regarding status options, and action would be taken by the end of 2012 or later. The recommendations regarding status options are that they be status options permissible under the United States Constitution of statehood, independence, free

association and nationhood as a free associated State (Commonwealth). The report includes a description of each. The Task Force specifies that the United States Congress has the ultimate authority over the admission of states; and that full independence involves a transition, including regarding citizenship status, which it recommends be honoured for Puerto Ricans who are United States citizens at the time of any transition to independence. The Task Force states that under the Commonwealth option Puerto Rico would remain, as at present, subject to the territorial clause of the United States Constitution, although Puerto Rico's local political autonomy should not be reduced or threatened. It also states that proposals for an enhanced Commonwealth status (Commonwealth with greater powers) remain problematic because the mutual consent consideration is one that a future Congress could choose to alter unilaterally.

26. Furthermore, the Task Force states "marginal preference" for a two-plebiscite process in which the people of Puerto Rico would first vote as to their preference between becoming a part of the United States through statehood or the Commonwealth, or becoming independent through independence or free association. A second plebiscite would then take place with a choice between available options as limited by the outcome of the first. If independence were chosen, a second vote would take place between full independence and free association. Regarding Vieques, the Task Force recommends measures for accelerating its clean-up, for boosting sustainable growth, for improving the quality of health care for Vieques residents and for protecting Vieques' Mosquito Bay, which is bioluminescent.

27. Reactions to the latest report of the Task Force, as covered by the press in Puerto Rico, were mixed regarding the status recommendations, ranging from welcome on the part of pro-statehood supporters, including the Governor, Luis Fortuño, who had announced a plebiscite for 2011, to statements by proponents of the application of international law to the case of Puerto Rico and those who had stated that the marginal preference of the Task Force for the two-plebiscite process favoured the statehood option. The argument suggested in the last-mentioned case was that, if the choice were to continue to be a part of the United States, in a second plebiscite free associated State supporters would be divided owing to the added option of free association.

28. Another reaction was that the extensive recommendations in the report regarding Puerto Rico's economy and social matters were tied to the status issue, in particular, to a status consultation process seen as favouring statehood since the recommendations regarding Puerto Rico's economy tended to further incorporate Puerto Rico into the United States through its further control by United States federal agencies, including in the areas of education, health, security, the justice system, communications and energy, which were the subject of the recommendations. Based on this further integration into the United States, a future choice by the people of Puerto Rico of Commonwealth status would not be a choice for Commonwealth status as it exists today, but rather for one that would be further integrated into the United States but not an incorporated territory.

29. According to the press in Puerto Rico, on 26 March 2011, the directorate of PNP, which favours statehood for Puerto Rico, unanimously decided to hold status plebiscites at the end of 2011, with the options of statehood, independence and free association, and in 2013 between the 2011 winning option and the present free

associated State status. Again, reaction was mixed, with PPD and PIP objecting for different reasons. No plebiscite took place at the end of 2011.

30. The PNP majority Government of Puerto Rico has now adopted legislation so that a plebiscite regarding Puerto Rico's political status may be held on 6 November 2012, the same day as the next general elections. According to that legislation, which was signed by the Governor on 28 December 2011, the plebiscite will ask voters, first, whether they agree with maintaining the current territorial status and, second, which of the following three alternatives to the current status they prefer: statehood (i.e., as a state of the United States), independence or free association with the United States. A lottery to be held in May 2012 will determine the order in which the status options will appear on the ballot.

III. Recent developments

A. Political developments

31. As described in previous reports, apart from general political questions, three specific issues have been raised before the Special Committee in recent years as resulting from the political status of Puerto Rico and its relationship with the United States: (a) the United States military presence in Puerto Rico, particularly on the island of Vieques; (b) the imprisonment in the United States of pro-independence Puerto Ricans accused of seditious conspiracy and weapons possession; and (c) the application of the death penalty to Puerto Ricans convicted on federal charges. In recent years, the issue of increased political persecution has been raised.

32. The report contained in document A/AC.109/2008/L.3 provided a detailed account of the situation surrounding former Governor Acevedo Vilá prior to the general election in Puerto Rico held on 4 November 2008. In those elections, Luis Fortuño of PNP won the governorship with 52.9 per cent of the vote. PNP also consolidated its control of the legislature and Pedro Pierluisi, also of PNP, won the office of Resident Commissioner in Washington, D.C.

33. Official data issued by the Puerto Rico State Elections Commission reflect that more than 23 per cent of registered voters did not vote. Including unregistered eligible voters, abstention was 36 per cent, or more than 1 million voters.

34. It is estimated that a significant number of those who voted for PNP did so to punish PPD, and in particular Governor Acevedo Vilá, for poor administration and a number of unpopular measures, including a sales tax and a new industrial incentives law. In this regard, the election of PNP to the governorship is not viewed as a mandate for the promotion of statehood for Puerto Rico as the fifty-first state of the United States.

35. A link was made at the time between the defeat of the former Governor and criminal charges brought against him and his associates by the United States Government for violations of electoral funds regulations (see A/AC.109/2008/L.3, paras. 20-22). On 20 March 2009, Acevedo Vilá was found not guilty on all counts of corruption that had been brought against him.

36. Throughout the incumbency of the Government of Puerto Rico elected in 2008, the major newspapers on the island have reported on its intolerance towards

minority views and violations of civil rights. Since 2010 they have reported on police abuse of students striking at the University of Puerto Rico. News coverage has also included the elimination by the present Government of the compulsory nature of membership in the Puerto Rican Bar Association, a civil rights organization founded more than 140 years ago. In September 2011, the United States Department of Justice issued a report[2] in which concern was expressed regarding the excessive use of force by the Puerto Rico police, for example against striking students. Specific mention was made of police corruption. It was concluded that the police had violated the civil rights of broad sectors of the population.

37. The issue of the Puerto Ricans accused of seditious conspiracy and weapons possession and imprisoned in the United States for more than 30 years has also been covered in previous reports. In essence, a number of Puerto Rican organizations and political and civil leaders have claimed over the years that these were essentially political prisoners and that they received disproportionately long sentences. In August 1999, President Clinton offered to release the prisoners conditionally, if they formally renounced violence. The offer was accepted by 11 of the original 15 prisoners, while 1 accepted a deal whereby he would be set free in five years. During 2002, 2 more of the original 15 prisoners were released although 1, Antonio Camacho Negrón, was rearrested in August 2006 by the Federal Bureau of Investigation. Of the two remaining prisoners, Carlos Alberto Torres was paroled in July 2010, while Oscar López Rivera (now 68 years old) was denied parole on 18 February 2011 and remains in a federal prison in Indiana. His appeal against that decision was rejected. On 31 May 2011, dozens of Puerto Rican community members and human rights activists gathered in Chicago to call for his release.

38. The National Boricua Human Rights Network and other activists are continuing a national campaign. They have submitted a petition for executive clemency to President Obama, in which they urge him to exercise his constitutional power of pardon to commute López Rivera's sentence from 70 years to time served and release him, noting that, by May 2012, he will have served 31 years in United States prisons.

39. On 5 February 2010, independence advocate Avelino González Claudio, who was arrested in March 2008 in connection with the Macheteros investigation, pleaded guilty to federal charges related to his involvement in a robbery in Connecticut in 1983. His brother, Norberto González Claudio, was later arrested and remains in a United States prison.

40. According to the Puerto Rican media and as reflected in recent resolutions of the Special Committee on Decolonization on Puerto Rico, there is a consensus among Puerto Ricans in favour of the release of those imprisoned for cases related to the struggle for independence. In late 2007 the Senate of Puerto Rico adopted a resolution in favour of the release of the prisoners.

41. Lolita Lebrón, who was incarcerated in United States prisons from 1954 to 1979 for pro-independence actions, died on 1 August 2011.

42. The issue of the application of the death penalty to Puerto Ricans convicted of crimes was described in detail in the 2000 report (A/AC.109/2000/L.3, para. 23). Although prohibited in Puerto Rico, the United States Department of Justice has

[2] See www.justice.gov/crt/about/spl/pr.php.

sought the death penalty for Puerto Ricans in a number of cases, resulting in one of the highest death penalty rates per capita of any state or territory within the United States. Although the United States District Court for the District of Puerto Rico ruled in 2000 that the death penalty violated the Puerto Rican Constitution, a year later the United States Court of Appeals for the First Circuit, in Boston, overturned the ruling, holding that Puerto Rico was subject to federal law. At present there are two capital cases in which the death penalty is being sought; three cases pending death penalty certification; and 25 Puerto Ricans sentenced to the death penalty in several states of the United States. The most recent execution of a Puerto Rican was on 13 December 2006 in Florida, when Angel Díaz was executed by lethal injection. That case provoked the creation of a commission to review execution protocols because it took 30 minutes for death to take place and the person was conscious when the injected substance caused his lungs to collapse.

43. Popular opinion in Puerto Rico is strongly against the death penalty and a coalition of religious and community organizations and political leaders have vowed to continue fighting attempts to impose capital punishment on the island. In late January 2008, then Secretary of Justice of Puerto Rico, Roberto Sánchez Ramos, and representatives of the Puerto Rican Coalition against the Death Penalty announced a series of decisions aimed at reducing the number of Puerto Ricans at risk of execution in United States federal cases. Those decisions were subsequently revoked by the current Government of Puerto Rico. In February 2010, the Government entered into an accord with the United States federal authorities granting them exclusive jurisdiction in homicide cases involving motor vehicle theft, bank robbery and use of illegal weapons. Trials in the cases of *United States v. Edison Burgos-Montes* and *United States v. Lashaun Cassye*, in which the accused could face the death penalty if convicted, are soon to begin in the federal jurisdiction of the United States in Puerto Rico. Other cases are in their initial stages.

B. Military developments

44. As previously reported, for many years Puerto Rico held an important military-strategic position within the United States Naval Forces Southern Command. In addition to its other military operations in Puerto Rico, from 1941 to May 2003 the United States Navy operated on Vieques, an island of just under 10,000 inhabitants located eight miles off the east coast of Puerto Rico. Vieques was used for naval gunfire support, air-to-ground ordnance training and amphibious assault exercises. Details of the military exercises conducted on Vieques during the period that the Navy occupied part of the island and of the related civil disobedience campaigns, arrests and lawsuits are to be found in previous reports of the Special Committee. According to a news release after the cessation of the military operations, the Department of the Navy retained responsibility for the environmental clean-up of the property and would demolish and remove all facilities and structures in the area.

45. Following the withdrawal of the Navy from Vieques, three related issues remained to be clarified: (a) the future development of Vieques and its environmental clean-up; (b) definitive conclusions regarding the effects of the military exercises on the health of Vieques residents; and (c) the future of the United States Roosevelt Roads Naval Station on the main island of Puerto Rico.

46. In 2010, the Resident Commissioner of Puerto Rico in Washington, D.C., Pedro Pierluisi, announced the "Plan Verde" (Green Plan) for Vieques, a comprehensive plan between its municipal government, Puerto Rico and United States federal Government agencies, Vieques residents, civic business and other sectors to develop the island in a sustainable and environmentally friendly manner.[3] Information on previous plans can be found in document A/AC.109/2010/L.4.

47. There have been reports of speculation regarding land and property in Vieques, and calls have been made for input by locals to be taken into account by entities involved in the clean-up and development of the island. Health and transportation between the main island of Puerto Rico and Vieques and Culebra have become tremendous problems for the islands' residents and have led to protests there. Health issues include lack of medications and X-ray services, and problems in hospital delivery rooms.[4]

48. Vieques has been sectioned off for the purpose of the clean-up activities, with a portion of the eastern part transferred to the Fish and Wildlife Service of the United States Department of the Interior, to be added to the existing Vieques National Wildlife Refuge. The United States Navy managed approximately 14,600 acres on the eastern portion of Vieques, which were used for amphibious training exercises and air-to-ground manoeuvres. Unexploded ordnance and remnants of exploded ordnance, which contain hazardous substances, have been identified there and in the surrounding waters. The United States Environmental Protection Agency (EPA) has also indicated that the hazardous substances associated with ordnance that might be present in Vieques include TNT, napalm, depleted uranium, mercury, lead and other chemicals.

49. On the western portion of Vieques, the Navy operated an ammunition facility until 1948. The facility was reactivated in 1962 and closed in 2001. Later that year, the Navy transferred 3,100 acres to the Department of the Interior, 4,000 acres to the Municipality of Vieques and 800 acres to the Puerto Rico Conservation Trust.

50. In February 2005, the Vieques portion of the proposed Atlantic Fleet Weapons Training Area site was placed on the EPA National Priorities List of the most hazardous waste sites in the country.

51. In March 2008, a federal inter-agency agreement was announced between EPA, the United States Department of the Navy, the United States Department of the Interior and the Commonwealth of Puerto Rico for the clean-up of portions of Vieques and its surrounding waters. The agreement requires that the environmental impacts associated with past and present activities on Vieques and its surrounding waters be thoroughly investigated and that appropriate actions be taken in order to protect the community and the environment.

52. Culebra Island, located about nine miles north of Vieques, was also part of the United States Navy training facilities. Although military activities ceased on Culebra in 1975 in response to public safety concerns, however, clean-up of the island has been slow due in part to legal issues regarding the use of federal funds.

53. Some 7,000 Vieques residents collectively sought compensation for health and property damage in the billions of dollars in a lawsuit, *Sánchez et al v. United*

[3] *El Vocero*, 9 July 2010.
[4] *El Vocero*, 19 August 2010.

States, in which they claimed that the United States Navy had been negligent by exposing the 10,000-strong population of Vieques to dangerous levels of toxins for more than 50 years, leading to a cancer rate in Vieques 30 times higher than the rest of Puerto Rico, and other long-term effects. The plaintiffs' lawsuit failed.

54. The United States Agency for Toxic Substances and Disease Registry, which is mandated to assess health hazards at sites designated for environmental clean-up, said in 2003 that it had found no negative effects on health from the Navy's decades on Vieques. In mid-2009, however, the Agency decided to begin a review of its much-criticized findings, including that there was essentially no health risk from the bombing range, which was closed that year. On 8 December 2011, in a 361-page report released for public comment,[5] the Agency, while accepting local claims that there was a higher incidence of cancer and other health problems on Vieques relative to the rest of Puerto Rico, said that there was no proof that the problem was linked to United States military activity. The long-awaited report was widely criticized by Puerto Rican officials and Vieques residents long resentful of health problems attributed to the United States Navy, which used the island as a bombing range for six decades. Although the report all but concludes a federal investigation into health problems on Vieques, critics have vowed to continue their fight on behalf of the sick.

55. In the new report, the Agency, referring to the scientific data presented about health problems on Vieques, said that the limitations associated with those analyses, particularly the methodological concerns discussed in the report, introduced considerable uncertainty and made interpretation difficult. It also said that elevated levels of some chemicals found in people's bodies could be attributed to causes other than military activity. It suggested that United States officials could work with the Government of Puerto Rico to obtain additional samples and keep track of health conditions on Vieques.

56. The Resident Commissioner of Puerto Rico, Pedro Pierluisi, said that he would request a congressional hearing to discuss the report and obtain an update on the clean-up of unexploded munitions that began in 2005. United States Congressman Steve Rothman said that the report did not address concerns about alarmingly high rates of serious and disabling health-care problems in Vieques. He expressed disappointment that the report provided more questions than answers, deeming it astonishing that the Agency appeared still to hold that decades of bombing on the island by the United States Navy with military ordnance posed no harmful health effects to the people of Vieques. In April 2011, he proposed the Vieques Recovery and Development Act, which called for the creation of a toxins research centre and a specialty hospital on the island, among other things.

57. One of the report's key findings was that some Vieques residents could have been exposed to high levels of mercury from consuming fish, although, according to the Director of the Agency, Christopher Portier, that problem was not linked to previous military activity. He suggested that the Vieques community should eat fish low in mercury.

58. The report contains the warning that some areas of the former bombing range continue to present a risk, stating that recently collected data demonstrated the remaining potential for localized contamination, which, if people frequented those

[5] Available from www.atsdr.cdc.gov/hac/pha/vieques/2011_ViequesReport.pdf.

areas, could be of health concern. The United States Navy has said that its forces accidentally fired 263 rounds of ammunition tipped with depleted uranium on the Vieques range in 1999, violating federal law.

59. According to some observers, the new report contains conclusions recycled from the 2003 report and lacks credibility. Public comments were to be submitted to the Agency for Toxic Substances and Disease Registry by 8 March 2012, subsequent to which it would issue a final report that would include recommendations for future work to be carried out on Vieques.

60. The United States Roosevelt Roads Naval Station in Ceiba was closed as a result of the departure of the United States Navy from Vieques in 2003. According to media reports, Riviera del Caribe, which is part of the Government initiative known as "Portal del Futuro", is the main economic development project for the area formerly occupied by the naval base.

61. On 22 January 2009, the United States Corps of Engineers announced that it would be granting contracts worth millions of dollars to build modern military facilities in Puerto Rico. Under the Base Realignment and Closure process, projects will be built in three locations: at Fort Buchanan and in the Mayaguez and Ceiba municipalities, at a cost of between $25 million and $50 million. In addition, a fourth project is already under contract for Fort Allen, which is located in the Juana Díaz municipality. In Caguas a fifth installation is foreseen for the Grow the Army Program, at a cost of $15 million.

62. Leaders of anti-military organizations in Puerto Rico, including Wanda Colón Cortés of the Caribbean Project for Justice and Peace, and Sonia Santiago of Mothers against War, have denounced these projects as an expansion of the United States military presence in Puerto Rico.

C. Economic developments

63. The economy of Puerto Rico has been in recession since 2006. Even before the recession took hold, the economy had been slowing for the past four decades, according to a report posted on the Puerto Rico Government website. Unemployment stands at 15.7 per cent, and crime rates are soaring. Drastic spending cuts — such as the dismissal of thousands of public sector workers — have provoked widespread social discontent. A total of 101 violent crimes were recorded in June 2011, the highest ever in Puerto Rico.

64. Puerto Rico has an industrialized economy with particular characteristics derived from its island geography and its close links to the United States economy. A number of tax incentives extended to United States corporations operating in Puerto Rico have been eliminated, including section 936 of the United States Internal Revenue Code, which was especially generous.

65. In recent reports of the Puerto Rico Planning Board and the Puerto Rico Department of Labor and Human Resources, the Government's budget deficit is put at $1.29 billion. Data from those entities also reflect a gross national product growth between 2000 and 2009 of -0.2 per cent. In addition, in 2007 the public debt (the debt of the central Government, the municipalities and public corporations) accounted for 77.59 per cent of the gross national product, rising to 94.04 per cent in 2009. Furthermore, over the past five years 60,000 public sector jobs have been

lost, including 41,000 since 2009. Data show that 44.8 per cent of Puerto Rico's population is living below the poverty line. Bankruptcy cases (including both business and personal bankruptcy) numbered 10,184 in 2009 and 11,810 in 2010, representing an 11.5 per cent increase over the course of one year.[6]

66. In November 2011, the Government of Puerto Rico joined interested sectors, including corporate lobbyists, the local opposition party and trade unions, to lobby the United States Congress for a new amendment (H.R.3020) to the federal Internal Revenue Code that would allow certain Puerto Rican corporations to elect to be treated as domestic (i.e., United States) corporations. With such amendment, the Territory could continue to be an offshore tax haven for multinational corporations. Tax breaks have existed for over 60 years, however, yet have had little impact on high unemployment and serious social problems, which have escalated, as shown by the increased incidence of crime. Experts believe that the proposed amendment does not include a specific requirement to create jobs with the repatriated profits, meaning that companies can use the funds to increase dividends and buy back their stocks. According to the Economist Intelligence Unit, several manufacturing firms — including in the pharmaceutical sector — have already scrapped plans to invest in or expand on the island.

67. Foreign corporations operating in Puerto Rico earned more than $35 billion in profits in 2010, which represents an increase of $2.5 billion over those generated in 2008 and 2009.

68. In a report made available on the Puerto Rico Government website on trends and projections for the economy of Puerto Rico, prepared with financial support through a United States federal grant, it was stated that after a period of significant economic expansion during the 1950s and 1960s (with average annual growth of 5.3 per cent and 7.0 per cent, respectively) Puerto Rico's economy had experienced a consistent, although gradual, slowdown for the past four decades. Real average annual economic growth contracted from 3.5 per cent in the 1970s to 2.0 per cent in the 1980s and 2.8 per cent in the 1990s, and was expected not to exceed 0 per cent from 2000 to 2010. Real growth by decade had declined since the 1970s. From 2000 to 2010, only 2003 saw a growth rate above 2.5 per cent, lower than the previous decade growth average of 2.7 per cent. During that same period, private employment had fallen by 3.9 per cent, or 28,416 jobs, while public employment, including all branches of the Government, had increased by 2,283 employees. For the fiscal year 2009, the average unemployment rate had reached 13.4 per cent, up by an estimated 2.5 per cent in a year. Meanwhile, private employment had been decreasing consistently over the past three years, indicating a lack of sources of new employment creation.

69. As an austerity measure to reduce Puerto Rico's then $3.2 billion budget deficit and address the issue of high public sector employment, the Government of Puerto Rico began public sector layoffs in May 2009, when 10,400 public employees were laid off. In addition, 7,000 more workers were laid off in October 2009 and a further 2,000 in January 2010, bringing the total to almost 20,000. The stated objective of the Governor of Puerto Rico was to reduce Government spending by $2 billion.

[6] Puerto Rico Planning Board, 2009 Economic Report, and the Government Development Bank.

70. According to the Puerto Rico Planning Board, in the period 2009-2010, the manufacturing industry lost 14,000 jobs. Sales of cement to the construction industry fell by 22.7 per cent between January and October 2010.[7]

71. Meanwhile, the agricultural sector remains small and is declining. According to official agricultural statistics, Puerto Rico imports 85 per cent of the food that its residents consume, owing to lack of ability to compete with the economies of scale of larger agribusiness firms abroad. Furthermore, Puerto Rico reduced its agricultural production by 20 per cent between 2003 and 2008; the Puerto Rico Department of Agriculture attributes the drop in production to the high operating costs (such as labour and energy).

72. Puerto Rico's services sector has grown in importance in recent years, with tourism a main component. It is estimated that, for every 100 hotel jobs, there are an additional 178 jobs in related activities. Published figures indicate that around 4.5 per cent of the workforce is employed in the sector. After a decade of steady growth in the tourism sector, in 2008 the global economic slowdown was having an effect.

IV. Previous action taken by the United Nations

A. General

73. Since 1953, the United States has maintained a consistent position regarding the status of Puerto Rico and the competence of United Nations organs to examine that status, based on resolution 748 (VIII), by which the General Assembly released the United States from its obligations under Chapter XI of the Charter of the United Nations. It has maintained that Puerto Rico has exercised its right to self-determination, has attained a full measure of self-government, has decided freely and democratically to enter into a free association with the United States and is therefore beyond the purview of United Nations consideration. The Puerto Rican forces in favour of decolonization and independence have contested this affirmation. In paragraph 9 of resolution 748 (VIII), the General Assembly expressed its assurance that due regard would be paid in the eventuality that either of the parties to the mutually agreed association might desire any change in the terms of that association.

74. Information on action taken by United Nations bodies with regard to Puerto Rico prior to 1974 is contained in the 1973 report of the Rapporteur (A/AC.109/L.976). Information since then can be found as follows: A/AC.109/L.1191 and Add.1 (for 1974-1976); A/AC.109/L.1334 and Add.1-3 (for 1977 and 1978); A/AC.109/L.1436 (for 1979-1981); A/AC.109/L.1572 (for 1981-1985); A/AC.109/1999/L.13 (for 1984-1998); A/AC.109/2000/L.3 (for 1999); A/AC.109/2001/L.3 (for 2000); A/AC.109/2002/L.4 (for 2001); A/AC.109/2003/L.3 (for 2002); A/AC.109/2004/L.3 (for 2003); A/AC.109/2005/L.3 (for 2004); A/AC.109/2006/L.3 (for 2005); A/AC.109/2007/L.3 (for 2006); A/AC.109/2008/L.3 (for 2007); A/AC.109/2009/L.13 (for 2008); A/AC.109/2010/L.14 (for 2009); and A/AC.109/2011/L.13 (for 2010).

[7] Ibid.

B. Action taken by the Special Committee

75. At its 1st meeting, on 24 February 2011, by adopting the suggestions relating to the organization of work put forward by the Chair (see A/AC.109/2011/L.2), the Special Committee decided to take up the item entitled "Special Committee decision of 15 June 2009 concerning Puerto Rico" and to consider it at plenary meetings.

76. At the 3rd and 4th meetings, on 13 and 20 June 2011, the Chair of the Special Committee drew attention to a number of communications received from organizations requesting to be heard on Puerto Rico by the Committee. The Special Committee agreed to accede to those requests and heard a number of representatives of the organizations concerned at its 4th and 5th meetings (see A/AC.109/2011/SR.4 and 5).

77. At the 4th meeting, on 20 June 2011, the representative of Cuba introduced draft resolution A/AC.109/2011/L.6.

78. At its 5th meeting, also on 20 June, following statements by Bolivia (Plurinational State of), Ecuador, Egypt (on behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries), Iran (Islamic Republic of), Nicaragua, Syrian Arab Republic and Venezuela (Bolivarian Republic of) (see A/AC.109/2011/SR.5), the Special Committee adopted draft resolution A/AC.109/2011/L.6 without a vote. At the same meeting, a statement was made by the representative of Cuba.

C. Action taken by the General Assembly

79. During the sixty-sixth session of the General Assembly, no draft resolution on this issue was submitted to the Assembly for action.